IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

P. I. L. NO.63 OF 2003

Labour Research & Consultancy Bureau & Anr. ... Petitioners.

Vs.

Ankush More & Ors. ...Respondents.

....

Mr. Mihir Desai for the Petitioner.
Mr. R. B. Jagtap h/f Mr. A.V. Anturkar for Respondent No.1.
Mrs. J. S. Pawar, Addl. G. P. for Responent Nos.2 to 4.

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CORAM : DALVEER BHANDARI,C.J. &
DR.D.Y.CHANDRACHUD, J.

August 25, 2004.

P.C.:

This petition in the public interest has been filed by an organization styled as “Labour Research and Consultancy Bureau”, which is the First Petitioner and by the President of the Organization who is the Second Petitioner. The relief which has been sought is the issuance of a writ of mandamus directing the State Government to place the First Respondent under suspension and to conduct a departmental enquiry against him in respect of certain charges which are set out in the petition. That is the relief

which has been pressed before the Court.

2. The allegation in the petition is that a retired school teacher had engaged the Petitioner to plead her case before the Controlling Authority under the Payment of Gratuity Act, 1972 and that an order was passed in the proceedings for the payment of an amount of Rs.1,08,915/-. An appeal is stated to have been filed against the order. During the course of the said proceedings, it is alleged that the First Respondent demanded an illegal gratification in the amount of Rs.10,000/- and that on 28th February 2002, upon a complaint by the teacher to the Anti Corruption Bureau, a trap was laid and that the First Respondent was arrested. In the reply which has been filed on behalf of the State Government, it has been stated that on 2nd August 2003, sanction has been issued to the Anti Corruption Bureau for prosecuting the First Respondent under the Prevention of Corruption Act, 1988. A departmental enquiry has also been initiated against the First Respondent and a chargesheet has been served on 30th September 2003. In the meantime, the First Respondent was transferred from the place of the incident, namely, from Pune to Mumbai. In this factual

background, the Petitioner has sought an order directing that the First Respondent should be placed under suspension and that a departmental enquiry be conducted. The departmental enquiry, it is stated before the Court on affidavit, has already been initiated.

3. On behalf of the First Respondent, a preliminary objection has been raised to the maintainability of the Petition which has been filed in the public interest. The submission is that it has been laid down by the Supreme Court in **Duryodhan Sahu vs. Jitendra Kumar Mishra,** A. I. R. 1999 SC 114 and in **Ashok Kumar Pandey vs. State of West Bengal**, AIR 2004 SC 280 that in service matters, public interest litigation should not be entertained.

4. We have heard the Learned Counsel. We are of the view that in view of the aforementioned judgments of the Supreme Court, this petition is liable to be dismissed. In **Ashok Kumar Pandey**'s case (supra), the Supreme Court has observed thus:

> "Though in Dr.Duryodhan Sahu v. Jitendra Kumar Mishra and other (AIR 1999 SC 114) this Court held that in

> service matters PILs should not be entertained, the inflow of so-called PILs involving service matters continues unabated in the Courts and strangely are entertained. The least the High Court could do is to throw them out on the basis of the said decision." (at p.285)

In the earlier decision in **R.K. Jain vs. Union of India,** (1993) 4 SCC 119, the Supreme Court had held that in service jurisprudence, it is settled law that it is for the aggrieved person to assail the legality of the offending action and that a third party would have no locus standi to canvass the legality or correctness of the action.

5. In view of the principle which has been laid down in these decisions, we are of the view that the objection which has been raised to the maintainability of the petition must be sustained and the petition must accordingly be dismissed. The petition is accordingly dismissed. In the circumstances of the case, there shall be no order as to costs.

CHIEF JUSTICE

DR.D.Y.CHANDRACHUD, J.